

(7)
THE
PROCEEDINGS

ON
HIS MAJESTY'S COMMISSION
OF

Oyer and Terminer, and Goal Delivery
FOR THE
High Court of Admiralty of *England*,

HELD AT
JUSTICE-HALL in the OLD-BAILEY,
On MONDAY the 29th of OCTOBER, 1759;

Before the Right Worshipful
Sir THOMAS SALUSBURY, Knt. LL.D.

JUDGE of the High Court of ADMIRALTY;
The Honourable Sir EDWARD CLIVE, Knt.
The Honourable HENRY BATHURST,

Two of the Justices of His Majesty's Court of COMMON PLEAS:
And Others His MAJESTY'S Commissioners.

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T H E P R O C E E D I N G S

On His Majesty's Commission of Oyer and Terminer, and
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Before the Right Worshipful Sir THOMAS SALUSBURY, Knt. LL.D.
Judge of the High Court of Admiralty; the Honourable Sir EDWARD
CLIVE, Knt. the Honourable HENRY BATHURST, two of the Justices
of His Majesty's Court of COMMON PLEAS; and others his Majesty's
Commissioners of Oyer and Terminer, and Goal Delivery for the Ad-
miralty of *England*.

A Bill of indictment was found by the
Grand Inquest against William Law-
rence, Samuel Dring, William Goff, and
Hendric Muller, late of London, mariners,
for piratically and feloniously boarding a
ship called the Enighadt, belonging to per-
sons to the jurors unknown, upon the high seas,
within the jurisdiction of the admiralty of Eng-
land, about three leagues from the North Fore-
land, in the county of Kent, in this kingdom,
and assaulting Christian Van Asten, then master
thereof, and robbing him of six guineas, his
property, and twenty deal boxes, value 40 s.
and three bales of cambrick, value 700 l. and
two bales of bed-ticking, value 100 l. the goods
of persons to the jurors unknown, April 3,
1759.

To this indictment they pleaded Not guilty;
and for their trial put themselves on God and
their country; whereupon the following gen-
tlemen were sworn upon the jury;

Henry Kent, <i>Foreman</i> ,	Samuel Gillman,
John Curtis,	William Robinson,
William Nofs,	Richard Fogden,
William Watfon,	Peter Dupont,
Thomas Holt,	John Pain,
William Nash,	John Rogers.

The witnesses were examined apart.

Christian Van Asten sworn.

Van Asten. I am a Dutchman from Rotterdam.
I was bound from Ostend to London, on board
the ship Enighadt.

King's Council. In what capacity was you on
board at the beginning of April?

Van Asten. I was master.

Q. Look at the prisoners at the bar. Do
you know them, or either of them?

Van Asten. I know William Lawrence and
Hendric Muller.

Q. Where did you see these two men?

Van Asten. They came on board me a little
before 4 o'clock in the afternoon, on the third
of April.

Q. When did you first see them?

Van Asten. I first saw them going towards a
Dutch dogger; they were in a cutter.

Q. What time was that?

Van Asten. That was about the mid-day; af-
ter that they made sail after me, and come on
board me. I asked the captain's name, and
they would tell me nothing at all.

Q. What did they do?

Van Asten. They asked me where I came from; I said from Ostend.

Q. Did they ask you where you was bound?

Van Asten. They did: I told them to London: bring too, said he, and keep from going towards the Dutch dogger. Then four men came on board me; those two men were two of them; then Lawrence asked me where I came from, and where I was going.

Q. Where did he say he thought you were going?

Van Asten. He said he believed I was going to France. He ordered me to shew my letters and bills of lading.

Q. Did you shew him them?

Van Asten. I shew'd him my bills of lading, and papers, and every thing. He asked me if I had nothing to drink. I gave him beer, wine, gin, brandy, and what he liked.

Q. How did he board you?

Van Asten. The cutter came near, and they came on board in their boat. Captain Lawrence asked me for shot-money; I asked him how much he must have; he said two guineas.

Q. What did he mean by shot-money?

Van Asten. He had fired a musket for me to bring too.

Q. Did you give him two guineas?

Van Asten. I had no money, and I asked a Spanish merchant that I had a passenger on board, whom I brought to London, to lend me two guineas. He lent them me, and I gave 'em to Lawrence. Then he would go and see what I had in the hold. There were some bales; he cut them all open; after that he could not well see what was in the bales. He came up, and asked me for a candle. I was afraid, (there being straw) of firing the vessel; so I sent two hands of my own down to see what they did. Lawrence licked my two men, and they came up again, and said he had beat them. After that another man, a short man, told me, he must have four guineas more, and then he would let me go.

Q. Had you a sight of all the men's faces?

Van Asten. Their faces were a little black'd, some had stripes of black on their cheeks, some a spot here and there on their faces. Lawrence gave me three blows, one on each arm, and one on my head.

Q. With what?

Van Asten. With the flat part of a hanger.

Q. At what time was it that he struck you?

Van Asten. That was a little time before I gave him the four guineas. I would not give him four guineas; so the little man said, come give us the money, and you shall be clear.

Q. Is that man here now?

Van Asten. No, he is not. I went to the Spanish merchant, and borrowed four guineas more, and gave that four guineas to that little short man. They all talked together; I did not know what they said. Then they went all four out; then they drove us all in the cabin. I was the last man that went in; all went in, the passengers and all my own people.

Q. How many men had you?

Van Asten. Eight men and a little boy, and there were five passengers. They lock'd the door when they had got us in. Then we saw them take the goods out of the fore-hatches, out of the hold, and put them into their boat.

Q. How long after you was shut up in the cabin that you saw them take the goods?

Van Asten. It was about an hour and half after they went from my vessel to the cutter, and came back again; and some other men came on board my vessel afterwards.

Q. How many came on board the second time?

Van Asten. I believe there were twelve.

Q. What number of bales did they take out at the hatches?

Van Asten. They took 2 bales marked A, N, No. 1, 2; 1 bale, E X E F & fs R; 1 bale, No. 117; 1 bale, E P, No. 21; 1 bale, marked with a bunch of grapes; and 2 bales to Mr. Benjamin. There were eight in all.

Q. What goods were in the bales?

Van Asten. I can't tell that.

Q. Did you ever see them opened?

Van Asten. No.

Q. What were these boxes?

Van Asten. They were packed in bales.

Q. What were done with them after they were taken from out of the hold?

Van Asten. They put them into their boat, and carried them to the privateer.

Q. Did you see them carry them to the privateer?

Van Asten. I did. I asked them if they had done; they said yes, you Dutch dog go along.

Q. What time was this done?

Van

Van Asten. This was done after 5 o'clock. Then we went all out of the cabin, and brought the helm up to make my way to land again, near the North Foreland.

Q. Whereabouts was you when they first began with you?

Van Asten. I was about three leagues from the North Foreland. After they were gone I saw no more of them.

Fedy Olford sworn.

He being a foreigner, and not speaking English, an interpreter was sworn.

Olford. I was on board the ship *Eenighiet King's Council*. In what capacity?

Olford. I was mate.

Q. Look at the prisoners.

Olford. I know Lawrence, Muller, and Dring.

Council. Go down and touch each person you know.

He went, and touched the three persons he mentioned.

Q. Where did you see these three men?

Olford. They were on board our ship.

Q. What was the first thing done after they came on board?

Olford. The first thing was, they looked upon the captain's papers.

Q. How were they dressed?

Olford. Some of them had their coats inside out, and some of them had their faces black'd. There were more than those three on board.

Q. Had any of these three that you have named their faces black'd?

Olford. One of them had. When the papers were shewed to them, they would not so much as look at them. They asked for gin, brandy and wine.

Q. Had they such liquor given them?

Olford. Yes.

Q. Did they ask for any thing else?

Olford. No. Then they went into the hold to see what was there.

Q. Did you hear any one of them call for any thing more than liquor?

Olford. They asked for two guineas for shot money.

Q. Which of them asked for that?

A

Olford. I cannot tell.

Q. Were they all together at the time that was asked for?

Olford. They were all together then; but I cannot say who asked the question.

Q. Was that two guineas paid them?

Olford. It was; and when they saw there was that Spanish gentleman on board, a passenger, who had money, then they demanded more money.

Q. Who paid them the money?

Olford. Our captain did; but he was obliged to ask it of the gentleman, the passenger. Then he gave it to these people.

Q. How much money was it?

Olford. I believe it was three guineas and a half.

Q. After that money was paid, what else was done?

Olford. Then they put us all in the cabin together; all the crew, passengers and all.

Q. When they had got you all there, what did they do afterwards?

Olford. Then they went down into the hold, and cut the bales open, and took several boxes out of the bales.

Q. Do you remember the numbers and marks upon them?

Olford. There were two, A, N, number 1 and 2; one marked s R, number 117; there was one with a bunch of grapes on it, number 32.

Q. What did they do with them?

Olford. They put them into their boat, and carried them on board their own vessel, the cutter.

Q. Did they come back a second time?

Olford. They went with the goods on board their vessel; and then there came twelve on board.

Q. How many came on board you the first time?

Olford. There were six of them.

Henry Welch sworn.

Welch. I did belong to the Prince William, belonging to Plymouth.

Q. What ship was you on board in April last?

Welch. I was on board the *Eenighiet*, as a passenger.

B

Q. Look

Q. Look at the prisoners at the bar; do you know them, or either of them?

Welch. I know them all four.

Q. Where did you see them before?

Welch. I saw them on board.

Court. Go down and touch them, and name them at the same time.

Welch. (He goes to the prisoners, and touches Lawrence's hand.) This is the captain, his name is Lawrence; I know the other three, but I cannot tell their names.

Q. Upon what occasion did you see them, and where?

Welch. I saw them on board that Dutch vessel which I was on board of.

Q. When?

Welch. On the third of April.

Q. On what occasion did they come on board that vessel?

Welch. They came on board to rob us. The captain came on board first, and asked for shot money; he asked for two guineas.

Q. Did he come alone?

Welch. No; there were some other men with him.

Q. How many?

Welch. I cannot rightly say how many. To the best of my knowledge there were six in all.

Q. What did the captain do the first time he came on board?

Welch. He asked for shot money; and captain Van Aften borrowed two guineas of a passenger, and gave it to them. After that they demanded four guineas and a half. That was borrowed, and given to some of the other men, not the captain, but I do not know which.

Q. What was done next?

Welch. They took out boxes, and bed-ticks from out of the hold, and put them on board their own vessel.

Q. Can you tell the marks of the things they took away?

Welch. No, I cannot.

Q. What did they do with them when they had got them on board their vessel?

Welch. They carried them on board their cutter.

Q. What was done after that?

Welch. Then they went to the westward.

Q. Could you see them.

Welch. I was in the cabin, and looked out at the cabin-window when they went off.

Q. How came you in the cabin?

Welch. Captain Lawrence made us all go into it.

Q. What did you see when you was in the cabin?

Welch. I saw a man stand within-side the gunnel; and we saw them hand the boxes from one to another, and put them into their boat; their own vessel lay under our stern.

Q. Did they carry away nothing but boxes?

Welch. Yes; they had bed-ticks.

Q. from Lawrence. Was I on board that ship when those things were taken out?

Welch. I am positive I saw Lawrence on board the Dutch vessel, and all the rest.

Q. Are you certain you saw these four men on board that Dutch vessel?

Welch. I am sure I did see them all there; I cannot say they all were there when the money was given, because their boat came on board twice. Captain Lawrence was carried on board first by two men; then the lieutenant came on board with some more; their faces were all spotted.

Q. Did captain Lawrence come back to your vessel a second time?

Welch. No, he did not. To the best of my knowledge the four prisoners were all on board the Dutch ship when the money was demanded and given to them.

Thomas Seal sworn.

Seal. I was first lieutenant on board the Pluto privateer in April last.

Q. What metal did she carry?

Seal. She carried six carriage guns and ten swivels; but our swivels were very seldom mounted.

Q. Do you remember coming up with a Dutch dogger called the Eenighiet?

Seal. I do.

Q. Who was master of her?

Seal. Christian Van Aften was; or we took him to be master of her.

Q. What was the first thing you did upon seeing her?

Seal. We told them to keep towards the boat. She was for keeping out to sea.

Q. Who

Q. Who was in the boat?

Seal. Captain Lawrence was, with some of his hands.

Q. How far was she from the cutter then?

Seal. She was then about half a league from the cutter. They came up with our boat, and then the captain, and his crew which he had in the boat, went on board her.

Q. How many men were there in the boat with the captain?

Seal. There were, I take it to be, four men and the captain.

Q. Do you remember the name of the other persons besides the captain?

Seal. Not to be certain. Muller was one.

Q. Was Dring or Goffe there?

Seal. I do not know of a certain.

Q. How long did Lawrence and those four men continue on board that Dutch vessel?

Seal. About half an hour. Lawrence returned on board the privateer, and two of the men with him.

Q. Who were those two men that returned with him?

Seal. I do not remember them.

Q. Did they bring any thing with them?

Seal. No; they brought nothing at all with them.

Q. What was done when he came on board the Pluto?

Seal. He told me to go on board the Dutch dogger; and I went on board her.

Q. Did he give any farther order than only to go on board?

Seal. No; he gave me no farther order.

Q. Had he left any hands on board the dogger?

Seal. He had left two or three hands on board her.

Q. How many men went on board along with you?

Seal. I believe there were half a dozen of us that went.

Q. Did any of the prisoners at the bar go on board her along with you?

Seal. I think Goffe did.

Q. What did you do when you went on board?

Seal. We went down into the hold, and took out several bales of cambrick, and boxes, and put them into our boat, and carried them on board our privateer.

Q. Was captain Lawrence on board the Pluto when you carried them there?

Seal. He was.

Q. Did he receive them of you?

Seal. He did.

Q. How far was the privateer from the dogger when you went on board?

Seal. She was not a musket-shot from us.

Q. How long was you before you returned that time you went?

Seal. It was better than an hour and half before we did. When we returned, captain Lawrence asked us what we had got? we told him. Then we broke the boxes open, and took the things out, and throw'd the boxes over-board, and put the cambricks into bags; after that we ran away to leeward, and put 'em on shore at a place called New Harbour, about two miles from Rye.

Q. Did you divide the money you got amongst you?

Seal. We did.

Q. How much each?

Seal. I can't say that.

Lawrence's defence.

That man (meaning the last witness) when he brought the things along side me, he look'd me in my cabin.

Court. Have you any witnesses?

Lawrence. I have no other than my fellow prisoners.

The other prisoners being called upon to make their defence, said they had nothing to say, nor any witnesses to call.

Lawrence, Dring, and Muller, Guilty Death.

Goffe, Acquitted.

A bill of indictment was found by the Grand Inquest against Henry Tickner, Thomas Lillywhite, Thomas Hartwell, Joseph Fisher, John Salmon otherwise Sammons, and James Pollard, late of London, mariners, for that they, together with John Cane the younger, since escaped, with force and arms, on the high seas, about the distance of three leagues from Little Hampton, in the county of Suffex, within the jurisdiction of the admiralty of England, a

certain ship, called the Young Fig, did board and enter, and make an assault on Alburtus Ruards, master of the said ship, putting him in bodily fear and danger of his life, ten hogheads of wine, value 20 l. the property of persons unknown, then and there on the high seas piratically and feloniously did steal, take, and carry away, against the peace of our sovereign lord the king, his crown and dignity, April 7, 1759.

It was laid over again for assaulting several mariners on board, and taking away, &c.

Robert Cook sworn.

Cook. I was on board the privateer called the Fox.

Q. What is the captain's name?

Cook. His name is John Cane the elder.

Q. Where was that privateer fitted out from?

Cook. She was fitted out from Shoreham in Suffex.

Q. When was she fitted out?

Cook. I believe last August was twelve months; it was before I was in her.

Q. When was you first on board her?

Cook. Soon after last harvest; it was in October.

Q. Was you in her last April?

Cook. I was. We went out of Little Hampton, just by Arundel water, on the fourth of April, which was of a Wednesday.

Q. Did you meet with any ship in your cruise?

Cook. Yes; we met with several Dutch hoys. On the 5th we met with one loaded with brandy and salt.

Q. Where was she coming from?

Cook. She was coming from Bourdeaux to the best of my knowledge, to some part of Holland; but cannot say where she was bound to.

Q. Had she nothing but brandy and salt on board?

Cook. No, nothing else. She might have a little wine on board. We boarded her, and took two casks of brandy out of her.

Q. Did you meet with any thing on the 7th of April.

Cook. Yes. Then we met with a Dutch

vessel loaded with wine; we asked her where she was bound. She said she was going some where in the North Seas.

Q. Where did she come from?

Cook. From Bourdeaux, loaded with wine.

Q. All wine?

Cook. Yes.

Q. What was she?

Cook. She was a hoy.

Q. How many ton?

Cook. I am no seaman; I cannot tell that.

Q. What guns did you mount?

Cook. We mounted twelve swivels.

Q. How many hands were there of you on board?

Cook. We had thirteen in all; but we had but twelve when we boarded that ship.

Q. What was the master's name belonging to the hoy?

Cook. I do not know.

Q. Did not you ask that?

Cook. No, we did not.

Q. What did you do when you came on board the hoy?

Cook. First we brought her too, and stood in to land about two hours.

Q. Why did you do so?

Cook. Because there was a fleet coming down, and a man of war to convoy them; we were afraid of them.

Q. How many of you went on board her?

Cook. There were three of us went on board.

Q. Name their names.

Cook. There were young John Cane, John Salmon, and myself. We took the captain of the hoy on board the Fox. We pretended to carry her in as a prize; and when the fleet had passed by, we hove her too, and took out ten casks of wine, about sixty gallons each.

Council. When you took the wine, mention which of the prisoners were on board the Dutch hoy.

Cook. There was young Cane, John Salmon, Thomas Hartwell, and Joseph Fisher; but Thomas Lillywhite, and James Pollard, were on board our cutter.

Q. What was said to the captain of the hoy?

Cook. I do not know what was said. We said but little to him. We demanded some shot money of him, and he would not pay it; so

so we broke open the hatches, and brought out this wine.

Q. How much shot money did you demand?

Cook. We used to demand shot money, but no certain sum in particular; that was always what we could get. After we had took out the wine we put the captain on board, and let her go about her business. Then we stood to Little Hampton road, and put three casks of the wine on shore. I was not on shore, but our people told me they put it into a boat-house. I was on board the cutter.

Q. Do you know that three of the casks were carried out of the cutter?

Cook. On the Tuesday following we landed six more of them, at a place called Little Semwell's, to the westward of Shoreham.

Q. How came you not to land more at Little Hampton?

Cook. Because the boat could not come off. We were in a gale of wind till Tuesday.

Q. Why did not you land the other six there?

Cook. Because we had bad fortune with them that we had landed there. They were taken by the custom-house officer.

Q. Did you see him seize them?

Cook. No; but our people came and said they were seized and taken away. (These were the people that were on shore with the boat.)

Q. Who went on shore with the other six casks?

Cook. James Balendine did, and put them under the care of John Cane the elder, our captain; he was on shore at the time, and not with us in this cruise.

Q. What became of those six casks?

Cook. He sold them, as we heard, and kept the money; for we never had any of it.

Q. Who helped to land those six casks?

Cook. Tickner, Lillywhite, Hartwell, Fisher, Salmon, and Pollard, were all there in the cutter, and helped to land them.

Q. Did they all of them know from whence these casks of wine were taken?

Cook. They did.

Q. Had you any wine on board when you went out upon that cruise?

Cook. No, we had not.

Q. What did you do with the other cask?

Cook. We drew that out, and drank it on board; that made the tenth.

Q. Do you know what marks were on the casks?

Cook. No, I do not. There were marks, but I do not know what.

Cross Examination.

Q. Were you to have part in that wine you put on shore?

Cook. We were to have part, but we had none.

Q. How soon were you taken up after this was done?

Cook. We were taken up on the 17th, and this was done on the 7th of April. We were pressed; then I discovered it to Mr. Batton.

Q. What did you discover?

Cook. I discovered that we took wine out of a Dutch hoy, about two o'clock in the day, on a Saturday.

Q. Was not Lillywhite sea-sick at the time these goods were taken out of the hoy?

Cook. He was often sea-sick; but I know nothing of his being sick at that time.

Q. Was he in the cutter at that time?

Cook. He was.

Q. Was he between decks?

Cook. We have but one deck to a cutter.

Richard Flote sworn.

Flote. I never was at sea till I went to sea with captain Cane, on board the Fox privateer.

Q. Look at the prisoners; do you know them?

Flote. I know them all, (naming their names.) I was with them out at sea, on the coast of Suffex, between Little Hampton and Shoreham.

Q. Upon what occasion did you go out with them?

Flote. We went out a privateering.

Q. What did you meet with?

Flote. We met with a Dutchman.

Q. What did you do upon that?

C

Flote.

Flote. We fired a gun to bring her to.

Q. Did she come to?

Flote. She did. Then we sent a boat on board.

Q. Who went on board with the boat?

Flote. Henry Tickner, Thomas Hartwell, John Salmon, Joseph Fisher, and John Cane the younger; all went on board.

Q. Can you recollect any others that went on board?

Flote. I do not remember any more than what I have mentioned.

Q. What did they do there?

Flote. They took out ten casks of wine.

Q. What all at once?

Flote. No; they went twice. They took out five at a time.

Q. Was you with them on board?

Flote. I went in the boat for one, but I did not go on board. I was in the boat along-side the hoy.

Q. Do you remember any marks on the casks?

Flote. No; I do not.

Q. What did a cask contain?

Flote. A cask might contain about 50 or 60 gallons of wine.

Q. What did you do with the wine?

Flote. We carried three casks on shore at Little Hampton, and six at Semwell's bridge?

Q. What did you do with the odd cask? You have given an account of nine.

Flote. We drew that out on board, and drank it.

Q. What became of the three first casks you landed?

Flote. They were taken by the custom-house officer at Little Hampton.

Q. What day of the month did you land them at Little Hampton?

Flote. We landed them on the 7th day, at night.

Q. What place did you put them in?

Flote. We put them into a boat-house.

Q. What sort of wine was it?

Flote. It was white wine.

Q. What sort of white wine?

Flote. I do not recollect what sort.

Cross Examination.

Q. On what account did you go out?

Flote. We went out on purpose for privateering.

Q. And only that?

Flote. Yes, only that.

Q. Are you sure Hartwell was there?

Flote. He was on board the cutter.

Q. Was he on board the Dutch hoy?

Flote. He was.

Q. Were those casks taken by force, or were they given to them?

Flote. I do not know that. I know they carried arms with them when they went on board the hoy.

Q. If the captain had haled you, and given you this wine, it was liable to have been seized, was it not?

Flote. Yes, it was.

Q. What did you receive for your share?

Flote. I never received a farthing.

Salmon. This evidence threatened he would take away our lives, if we would not go on board a man of war.

Flote. I never threatened any such thing.

Fisher. The first man that was called here, I happened to strike him; and he swore, d——n me, he would be up with me in some shape or another.

Q. How came you to do so imprudent a thing as to take this wine?

Flote. The captain sent us on board.

Q. Did you at that time think you was to obey the captain's orders?

Flote. Yes.

Q. Do you know that it was French wine?

Flote. I do not understand French wine, nor no wine.

Q. Did not you say the captain was not on board the privateer when you went out this cruise?

Flote. John Cane the elder, he was on shore, but then John Cane the younger, he acted as captain. He ordered us to go on board, and take them.

James Balendine sworn.

Balendine. I belonged to the Fox privateer of Shoreham, John Cane was master.

Q. How many hands were there of you?

Balendine. There were thirteen hands of us when we first went out. We left the captain on shore when we went out this cruise; then there were but twelve of us.

Q. Were the prisoners part of the crew?

Balendine. They were.

Q. When did you set sail?

Balendine. We set sail on the 4th of April last, out of Little Hampton water. We met with a Dutch ship the same day we went out.

Q. Did you meet any on the 7th?

Balendine. Yes, we did. She was a hoy. They said she was bound to the East Seas.

Q. What was her name?

Balendine. I do not know her name.

Q. What was the master's name?

Balendine. That I do not know neither.

Q. How do you know it was a Dutch vessel?

Balendine. She had Dutch colours; and from thence I concluded she was a Dutch vessel.

Q. What did you do when you met with her?

Balendine. We boarded her. This was about 12 o'clock, and took the captain out of her.

Q. Who went on board?

Balendine. John Cane the younger, Hartwell, Fisher, Salmon, and one Zebyda. He is not here.

Q. Did you go on board her?

Balendine. No, I did not. We took the captain and his papers on board our ship.

Q. Where was you?

Balendine. I was on board the cutter. They brought him on board. After that we saw a fleet coming to the eastward, and we thought there was a man of war along with them, and we ordered the Dutch ship to stand away to the land, and we to the southward. We concluded amongst ourselves to take something out of her; so we brought five casks of wine on board our cutter first.

Q. Why did you conclude so? what were your reasons for so doing?

Balendine. We concluded to do that for shot money.

Q. Did you ask the captain, or any body else, for shot money?

Balendine. I asked him for shot money, and he said he had none.

Q. Where was the captain when you ask'd him this?

Balendine. He was on board our cutter.

Q. Did you ask that in the presence of any of the prisoners at the bar?

Balendine. I do not know but that James Pollard was there; but I am not certain.

Q. What was you on board that privateer?

Balendine. I was lieutenant.

Q. What was brought on board your vessel, in the whole, from that hoy?

Balendine. Five casks were brought first, and then five more.

Q. What did a cask contain?

Balendine. About 60 gallons each.

Q. What did you do with them?

Balendine. We put three of them on shore at Little Hampton pier, on the 7th at night. There came a gale of wind, and we could not get any more on shore; so we went and put six on shore at Semwell. The first three casks which we put shore at Little Hampton we put into a boat-builder's shop, after that the custom-house officer seized them.

Q. Are you sure of that?

Balendine. I am positive of that.

Q. Why are you positive?

Balendine. Because the officer told me he had taken three casks of such wine out of that carpenter's shop. The captain was to make sale of the other six. (We left them with him). What he made of them I know not.

Q. Who were on board the Dutch ship at the time they were taken away?

Balendine. There was Hartwell, Fisher and Salmon.

Q. How came they to go and take the casks away?

Balendine. The thing was proposed amongst us all; it was said, shall we have these things? and we all agreed to it, and then it was done.

Q. Did

Q. Did you do this under the captain's order?

Balendine. To be sure he ordered it first.

Cross examination.

Q. Did you know that this was a robbery at that time?

Balendine. I must be very sensible of that.

Q. What do you mean by shot money?

Balendine. It is always what is customary with privateers, for something for expences of shot. When they bring vessels to, by whatever I have been informed, it is a thing that they take they have a right to.

Q. Where have you been since?

Balendine. I have been on board a man of war seven months now.

Q. Did you ever hear of shot money on board a man of war?

Balendine. No.

Q. Do you know what is the reward upon the conviction of a prisoner accused of this offence?

Balendine. No, I do not.

Q. Did you never hear?

Balendine. I cannot say but that I have heard of it.

Q. Have not you heard it was five hundred pounds a man?

Balendine. I did not do it for the reward.

Q. Why did you do it?

Balendine. I did it to clear myself. I never expect the five hundred pounds. I have heard it is five hundred pounds a man.

Q. Did either Hartwell, Fisher, or any other of the crew hear what passed between you and the captain of the hoy?

Balendine. No, they could not; for they were on board the hoy.

Q. Have you heard either of those men say what the ship was, or where she was bound to?

Balendine. No.

Q. Whether you had the wine lawfully or not, was it liable to a seizure when you carried it on shore?

Balendine. It was.

Q. Was it not borrowed?

Balendine. No, it was not.

William Dodd sworn.

Dodd. I am a custom-house officer in Little Hampton, in the port of Arundel.

Q. Do you remember seizing three casks of wine at Little Hampton?

Dodd. I do; it was on the 8th of April, 1759.

Q. Can you tell what marks were upon the casks?

Dodd. No, I cannot.

Q. What wine was it?

Dodd. It was white wine.

Q. What time of the day did you seize it?

Dodd. I seized it about ten in the evening.

Q. Did you seize it alone?

Dodd. I and my partner did. We were on our duty, and we found it, and seized it, and carried it to the custom-house at Arundel, and there it was condemned.

Q. What quantity in a cask?

Dodd. I suppose they contain about sixty gallons each. There were about an hundred and forty-five gallons of it, or thereabouts, in the three.

Tickner's defence.

There was nothing ever done, but what was done by the captain's orders.

Lillywhite's defence.

I was sea-sick at the same time in the cabbins, and was not out of our vessel.

Hartwell's defence.

What was done I know nothing of it; it was done by the captain's and lieutenant's orders.

Fisher's

Fisher's defence.

What was done was done by the captain and lieutenant's order. The captain being on shore, the lieutenant (his son) went on board the Dutch ship, and brought the captain on board, and his bills of lading with him ; and after being on board for some time, he understood at first he was bound to Offend, but by some means he found he was bound to the East Seas ; so he ordered him on board his vessel again.

Salmon's defence.

What was done was by the captain and lieutenant's command.

Q. to *Balendine*. Who was lieutenant ?

Balendine. I was.

Q. Did you go and bring the captain of the Dutch hoy on board your cutter ?

Balendine. I was not on board the hoy.

Q. Did you examine the papers ?

Balendine. I did not understand them.

Q. Did you examine the captain from whence he came, and where he was bound ?

Balendine. I did. He could talk no English, only that he was bound to the East Seas.

Q. Did you order these people to go on board the Dutch hoy, and fetch the wine on board ?

Balendine. No ; they were on board, and hoisted the wine out of the hold of their own accord.

Q. Who was ordered to do it ?

Balendine. It was an agreement amongst themselves.

Q. Was it said by any of these prisoners, whether she was a prize or not a prize ?

Balendine. We could not tell which she was. We thought, her loading being nothing but wine, we could not make much of it ; so we all concluded to take a little and leave her.

Q. Did all the prisoners at the bar come to that agreement ?

Balendine. They did.

Q. What was the agreement ?

Balendine. There are so many shares taken out for the vessel ; and every man has an equal share, shilling for shilling, with the captain, in every form. They all have their equal share.

Q. Is there no wages paid ?

Balendine. No wages at all. They find the ship's provision and things out of the whole ; and what is clear gain they share it equally, and put it in their pockets.

Q. Have the common sailors on board as much prize money as you that was lieutenant ?

Balendine. Yes ; they have all an equal share ; all share alike.

Q. Is that agreement made before you go out ?

Balendine. It is ; and then we agree who shall be captain, and who lieutenant.

Q. And must the common hands obey their command ?

Balendine. Yes, if they think proper ; not else.

Q. Supposing one of those men will not obey the captain, what then ?

Balendine. Then it must be submitted to the majority of the company.

Q. Had you a commission from the Admiralty to go a privateering ?

Balendine. We had.

Q. Who had that commission ?

Balendine. It was to the captain, old John Cane ; it was not to all of us.

Q. Do not you know if you resist your captain's orders you may be put to death ?

Balendine. We were every one upon the same footing, and had every one alike.

All six acquitted.

See Lillywhite tried, No. 283, in Sir William Calvert's mayoralty, 1749, in company with Thomas Kingsmill, William Fairall, Richard Perin, and Richard Glover, for breaking the king's custom-house at Pool in Dorsetshire, and taking out thence thirty hundred weight of tea, value 500 l. and upwards.

The trials being ended, the court proceeded to pass sentence of Death on William Lawrence, Samuel Dring, and Henric Muller.

The court then adjourned to Tuesday the 6th of November, at Nine o'clock in the morning, in the Common Hall, Doctor's Commons.

Taken in Short-hand by THOMAS GURNEY.



